

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KHAN AIR, LLC,

Plaintiffs,

v.

UNITED STATES AIRCRAFT INSURANCE
GROUP, *et al.*,

Defendants.

No. C05-0420L

ORDER DENYING PLAINTIFF'S
MOTION FOR DEFAULT

This matter comes before the Court on "Plaintiff's Motion for Default Against Western Aircraft, Inc. on the Third-Party Claims Brought by United States Aircraft Insurance Group and AirSure Limited of Colorado, Inc.." Dkt. # 107. Having reviewed the memoranda, declarations, and exhibits submitted by the parties, the Court finds as follows:

(1) Plaintiff's motion is substantively and procedurally defective. Pursuant to Fed. R. Civ. P. 12, a party must file and serve an answer or a motion to dismiss within 20 days of being served with a summons and complaint. Given the voluntary extension of time granted by AirSure, Western Aircraft timely responded to AirSure's third-party complaint.¹ Plaintiff has

¹ The Court finds nothing unusual, suspicious, or prejudicial about Western Aircraft's request for, and AirSure's agreement to, an extension of time in which to answer. Such extensions are commonplace and plaintiff's suggestion that it is shocked that these parties worked together to resolve a scheduling matter borders on the ridiculous.

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1 offered no facts or law that could support a contrary finding. To the extent plaintiff's motion is
2 based on Western Aircraft's alleged failure to respond to USAIG's third-party complaint, that
3 response was not due at the time plaintiff filed its motion for default. Finally, despite the fact
4 that counsel entered a notice of appearance on behalf of Western Aircraft on September 7, 2005,
5 plaintiff failed to provide timely notice of its intent to move for default in violation of Local
6 Civil Rule 55(a).

7 (2) Defendants AirSure and Western Aircraft filed unauthorized sur-replies that
8 have not been considered by the Court in ruling on plaintiff's motion for default.

9 (3) Western Aircraft seeks an award of fees as a sanction for plaintiff's spurious
10 motion. Western Aircraft has not, however, identified any rule, regulation, or statute that
11 authorizes sanctions or an award of fees in the circumstances presented here.

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13 For all of the foregoing reasons, plaintiff's motion for default against Western
14 Aircraft is DENIED.

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16 Dated this 25th day of October, 2005.

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19 Robert S. Lasnik
20 United States District Judge
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